WP(C) 4191/2006

BEFORE

HON'BLE MR JUSTICE B.P.KATAKEY

By this writ petition the petitioner has challenged the encroachment proceeding initiated against him by issuing a notice dated 18.12.2000(14.12.2000) under Rule 18(2)of the settlement Rules framed under Assam Land and Revenue Regulation Act, 1886.

I have heard Mr.H.A.Sarkar, learned counsel for the petitioner as well as Mrs.Singh learned State counsel on behalf of the respondents.

Mr.Sarkar, learned counsel for the petitioner has submitted that the petitioner is in the occupation of the land from which he is sought to be evicted, for more than 30 years by paying revenue to the local revenue authorities and the revenue authority by issuing such notice is trying to evict the petitioner from the land in question, without making any alternative arrangement . It has further been submitted by the learned counsel that the petitioner is sought to be evicted from the land in question, without following the procedure established by law.

The learned State counsel appearing for the respondents on the other hand, submitted that the land which is under the occupation of the petitioner, is admittedly government land and there being no order of settlement granted in favour of the petitioner, the authority has rightly issued the notice dated 18.12.2000(14.12.2000) under Rule 18(2) of the settlement Rules framed under the Assam Land and Revenue Regulation Act, 1886 as that is the procedure to be adopted for eviction of the unauthorized occupants from the government land.

The petitioner in the writ petition has admitted that the land from which he is sought to be evicted vide order dated 18.12.2000(14.12.2000) is a government land. Rule 18(2)of the settlement Rules framed under the Assam Land and Revenue Regulation Act,1886 empowers the revenue authority to remove any encroachers from the government land came into possession without there being any valid order of settlement in his favour. It is not the case of the petitioner that there is an order of settlement granted in his favour or he has been permitted by the competent authority to occupy the same . That being the position, the authority has to initiate the proceeding under Rule 18(2) of the settlement Rules. The payment of tauzi bahi revenue on which the learned counsel placed reliance, will not confer any right on the petitioner to occupy such government land unless there is a valid order of settlement or permission by any government authority to possess the same. The contention of the learned counsel for the petitioner that the due process of law has not been followed also cannot be accepted as the procedure enumerated under Rule 18(2) of the settlement Rules has been followed by the Deputy Commissioner by issuing the notice.

That being the position, I do not find any merit in the writ petition and hence, the same is dismissed. No cost.